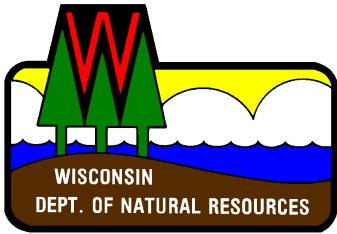


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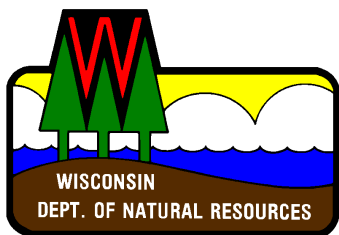
*Ozone Redesignation:  
Some Questions and Answers  
generated on Oct 25, 2001  
at the  
WI Clean Air Act Task Force and Partners for  
Clean Air Forum*



## *Redesignation : Oct 25 Follow-up Questions & Draft Responses*

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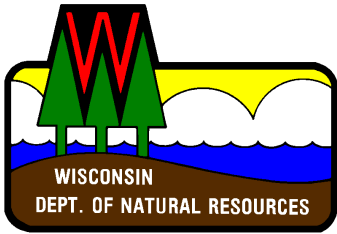
- ◆ ***A – Air Quality Data and Redesignation and Designation Process Issues***
- ◆ ***B – Demonstrating Attainment based on Permanent and Enforceable Measures***
- ◆ ***C – New Source Review, Offsets and Permitting Changes***
- ◆ ***D – Scope of the Maintenance and Contingency Plans***
- ◆ ***E - Role of Voluntary Measures***



## ***A – Air Quality Data and Redesignation and Designation Process Issues (1 Hr Ozone)***

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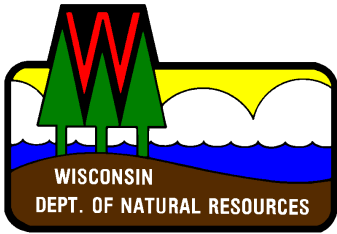
- 1. Question: Given that readings were so close with the 4<sup>th</sup> highest value at the Chiwaukee monitor for the 1999-2001 period (i.e. – 124 parts per billion (ppb), what is the realistic probability that the redesignation request will not be approved by EPA?**
- ♦ Answer: EPA has indicated that if a state is meeting the standard, no matter how close they are to the standard, EPA can approve the redesignation.**



## ***A – Air Quality Data and Redesignation and Designation Process Issues (1 Hr Ozone)***

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- 2. Question: What happens to the redesignation process if there are 1-hour exceedances in 2002 or 2003?**
- ♦ **Answer: If the redesignation has been approved, the Department would look to the maintenance plan to implement measures to address the violations. However, if the number of exceedances at any one monitor indicates a violation status prior to final redesignation, the final approval must wait until the non-violation status is again achieved and the maintenance plan and redesignation components at that point are approvable.**

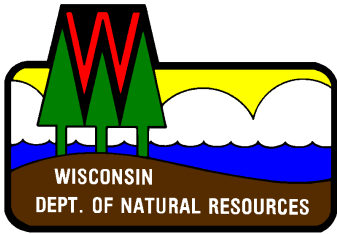


## ***A – Air Quality Data and Redesignation and Designation Process Issues (1 Hr Ozone)***

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**3. Question: If and when redesignation is approved, what could cause the status of the area to be reversed – i.e., go back to nonattainment ?**

- ♦ **Answer: Once an area is redesignated attainment and has an approved maintenance plan, it is highly unlikely it would get redesignated nonattainment without a consistent and worsening pattern of violations. This is particularly true where a modeled attainment demonstration has been approved and all the Clean Air Act control programs required of an area based on initial design value remain in place (excluding the nonattainment area requirements of New Source Review with offsets). However, the federal Environmental Protection Agency (EPA) has the authority to move areas back to nonattainment and has done so in areas where maintenance plans clearly were not addressing violations of the standard (for example, the San Francisco area.)**

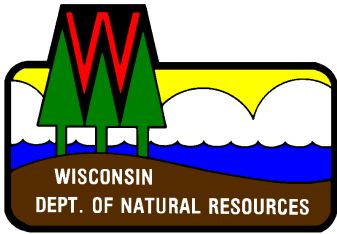


## ***A – Air Quality Data and Redesignation and Designation Process Issues (1 Hr Ozone)***

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**4. Question: Is the WI redesignation process pursued separately or as part of a regional process with Illinois and Indiana?**

- ◆ **Answer: Because of the regional ozone transport in the Lake Michigan area, the states have committed to pursue a coordinated effort with EPA-Region 5 similar to the development of the attainment demonstration plans. EPA's preference is to do it together but if one state gets ahead, EPA will try to move forward with that state as a separate action. An expedited redesignation process usually takes 12-16 months. States may take differing times to develop some of the required components of the petition for redesignation – including inventories and formal listing of contingent control measures. The Clean Air Act requires a submittal and approval of redesignation for each separate area (1 that includes the NE Illinois and NW Indiana counties and 3 separate areas in WI – the 6 county metro area, Manitowoc County and Door County.) As part of the process, Wisconsin will also update the Sheboygan and Kewaunee maintenance plans.**

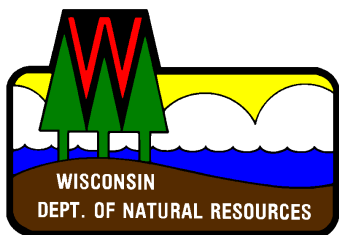


## ***A – Air Quality Data and Redesignation and Designation Process Issues (8 Hr Ozone)***

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**5. Question: Which years will be used for 8-hour ozone designations?**

- ◆ **Answer: There is uncertainty on this with the unfinished litigation on the 8-hour ozone standard. There is currently no schedule so it is too early to know what years will be used. Classifications would mostly likely be based on the 3 years of monitoring data in place if and when the 8-hour ozone standard is re-proposed or when the final standard is signed. The years driving designation would be part of the proposal package and might be flexible based on the availability of later years of monitor data or specific local conditions.**

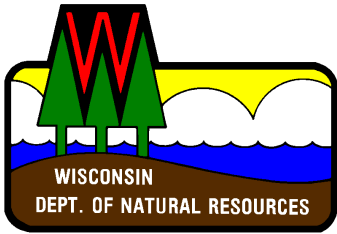


## ***A – Air Quality Data and Redesignation and Designation Process Issues (8 Hr Ozone)***

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- 6. Question: If an average 4<sup>th</sup> highest 8-hour ozone concentration of 84 ppb (over three years) is the “attainment” designation goal, relatively how close are we now?**
- ◆ Answer: The highest values in Wisconsin are at or about 95 ppb at the Chiwaukee, Harrington and Sheboygan monitors. In addition, all the shoreline counties plus Waukesha, Jefferson and Rock counties have monitors that are over the standard (as originally proposed in 1997). Monitors in Washington and Walworth counties are quite close.**



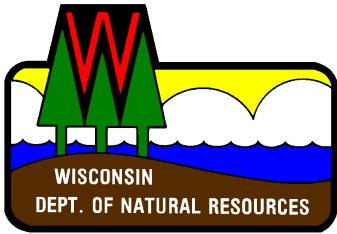


## ***A – Air Quality Data and Redesignation and Designation Process Issues (8 Hr Ozone)***

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**7.Question: Won't the NO<sub>x</sub> SIP reductions eliminate many of the 8-hr ozone problems in the “transport” counties such as Jefferson and Walworth?**

- ◆ Answer: The Department is hoping that the NO<sub>x</sub> SIP Call plans, new vehicle, fuel and off-road equipment standards and other voluntary and evolving programs will steadily improve the ozone air quality in the region including the more rural counties with lower absolute (but sometimes higher proportional) emissions. However, some of these programs take many years to become fully effective and the regional modeling indicates the NO<sub>x</sub> SIPs in concert with other promulgated programs are inadequate to demonstrate future 8-hour attainment for the region as a whole. Therefore SIPs that address air quality in the full region will need to be developed based on the requirements of any finally promulgated 8-hour ozone and/or PM-fine standards.**

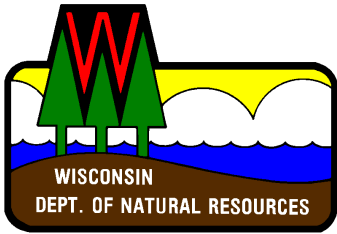


## ***A – Air Quality Data and Redesignation and Designation Process Issues***

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**8. Question: With the 1 hour ozone redesignation right around the corner for Wisconsin, will Wisconsin lose eligibility for future Congestion, Mitigation and Air Quality (CMAQ) funding? Or will the state continue to be eligible since we need to maintain our designation?**

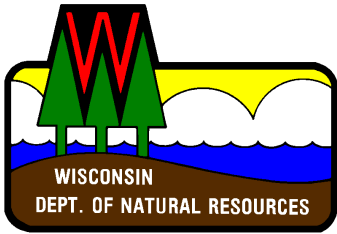
- ♦ **Answer: The CMAQ authorization formula is based on designation severity. Maintenance areas are eligible for continued CMAQ funding. From a strict interpretation, there could be a one-third reduction in CMAQ funds from the Federal Highways Administration. However, because the Legislature has chosen to not fully fund the CMAQ program at its authorization level, the net impact could be a wash.**



## ***B – Demonstrating Attainment based on Permanent and Enforceable Measures***

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- 9. Question: How will the Department demonstrate to EPA that our air quality improvement is due to permanent and enforceable measures?**
- ♦ **Answer: The Department will demonstrate with inventories that the emissions have come down and will link those decreases to control measures (such as reformulated gasoline, Reasonably Available Control Technologies (RACT) requirements and vehicle inspection and maintenance programs) that are permanent and enforceable. If redesignation is approved, future years will rely on comparing the approved demonstration of attainment with future maintenance plan inventories.**

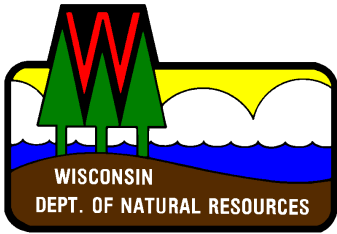


## ***B – Demonstrating Attainment based on Permanent and Enforceable Measures***

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**10. Question: How much of the ozone improvement is due to plant closings?**

- ◆ **Answer: The Department cannot determine this directly. However, plant turnover (including closings) are part of the projection process for future year inventories so it is acknowledged that they contribute to reducing ozone.**

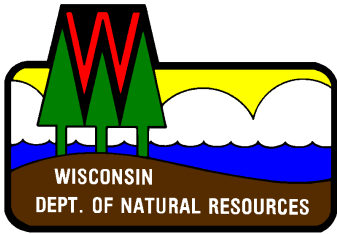


## ***B – Demonstrating Attainment based on Permanent and Enforceable Measures***

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**11. Question: Last year, the Department revised the State Implementation Plan (SIP) for reasonable further progress toward the 1-hour standard. Given that some of the measures have not been implemented, will these be rescinded or placed into the contingency plan?**

- ◆ **Answer: The Department's position is not to move attainment plan controls, which were just approved by EPA in October, to the maintenance plan. For example, requirements on larger boilers that are not due until the end of 2002 will remain in the attainment plan. EPA interprets the CAA [Section 110 (I)], as linking redesignation approval to retaining the approved plan's reduction objectives and timetable throughout the maintenance period. This means the Department could risk redesignation approval if any controls not yet implemented from the attainment plan are moved to a contingency list or the maintenance plan.**

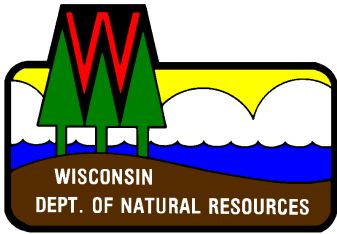


## ***C – New Source Review, Offsets and Permitting Changes***

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**12. Question: When will the New Source Review (NSR) changes go into effect?**

- ♦ **Answer: The NSR changes will go into effect after final EPA approval of redesignation (published in Federal Register) AND after the Department has completed state redesignation procedures. An expedited redesignation process combined with absence of both a legal challenge and re-violation of the standard in 2002 could hypothetically point to a fall 2002 or early winter 2002-2003 change.**

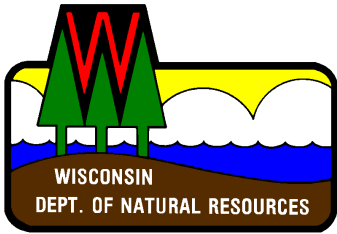


## ***C – New Source Review, Offsets and Permitting Changes***

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**13. Question: If the definition of “Major Source” is changed as a result of redesignation, what are the impacts on industrial sources with Title 5 operating permits?**

- ♦ **Answer: The requirements in existing permits remain in effect and sources could request modification. However, any new permits would be issued under the changed conditions.**



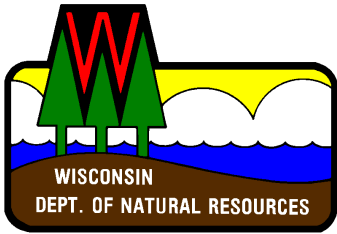
## ***C – New Source Review, Offsets and Permitting Changes***

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**14. Question: Can sources that received permits to construct or modify a facility now reopen those permits for relaxed limits after redesignation is approved?**

- ♦ **Answer: Yes, however, with respect to those permit limits which are affected by the redesignation action, the permits will be looked at case by case and the general principle is “no backsliding.”**



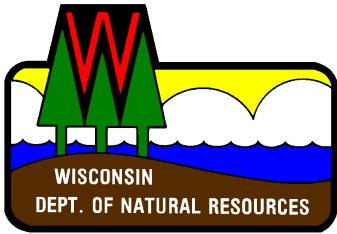


## ***C – New Source Review, Offsets and Permitting Changes***

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**15. Question: When attainment status is approved, will synthetic minor source designation still remain a viable permit source definition or will such sources have to change their permits?**

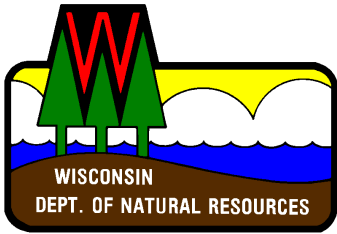
- ◆ **Answer: The Department does not expect there to be as many requests for synthetic minor sources because the thresholds will be the same as in other parts of the state and sources will see little advantage to being designated a synthetic minor.**



## ***D – Scope of the Maintenance and Contingency Plans***

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- 16. Question: How are the NOx SIP Call programs taken into account in the maintenance and contingency plans given that Lake Michigan Region ozone levels are projected to drop due to the resulting NOx reductions?**
- ◆ **Answer: Based on the attainment SIPs, the NOx SIP Call reductions are critical and should be a key component of the maintenance plan. In addition, the NOx SIP plans (and the Section 126 action plans) are separate programs from the attainment SIPs. They address multiple regional pollutant transport issues in addition to the attainment plan. NOx emissions from Illinois and Indiana have been shown as significant contributors to ozone nonattainment areas beyond the Lake Michigan region which have yet to monitor attainment air quality. The NOx SIPs are also based on federal definitions and NOx budgets with a solid federal backstop structure if not maintained by the states.**

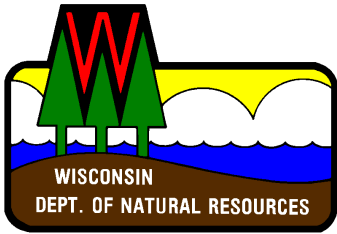


## ***D – Scope of the Maintenance and Contingency Plans***

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**17. Question: In the maintenance plan, what credit will the Wisconsin redesignation request take for the NOx SIP Call programs impact or effect on regional transport?**

- ◆ **Answer: The maintenance plans for all the Wisconsin areas will continue to reflect the beneficial impact of the NOx SIPs. For the existing maintenance plans (esp. Sheboygan and Kewaunee) this may entail formal plan updating. For the new maintenance plans (the Severe 6 county Milwaukee area plus Manitowoc and Door), this will mean formal identification of the regional NOx SIP plans and some likely adjustment to post-2007 contingency elements. Because the attainment demonstrations incorporate reasonable further progress through 2007, contingent components are not required until after that time.**

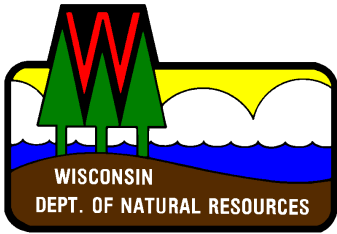


## ***D – Scope of the Maintenance and Contingency Plans***

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**18. Question: In the maintenance plan or elsewhere, will there be continuing efforts on the broader ozone transport issue since past studies have shown impact on the three state region from areas upwind?**

- ◆ **Answer: The LADCO states including Wisconsin are part of a larger (5 state) regional planning effort focused on plans to reduce haze and the precursor fine particulate matter. This effort has to be multi-pollutant in its approach and will include 8-hour ozone planning and analysis support when that standard is finally promulgated based on resolution of the outstanding litigation issues.**

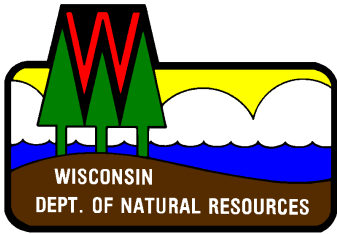


## ***D – Scope of the Maintenance and Contingency Plans***

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**19. Question: Are requirements for offsets and LAER potential components of a maintenance plan?**

- ◆ **Answer: Yes, these are options for states in a maintenance plan but they are not required. A prudent approach to address excessive emissions growth from this sector could be to retain some type of offset/LAER program, however it's not a prerequisite for redesignation and retention of this program would require new legislation and/or administrative rule-making.**

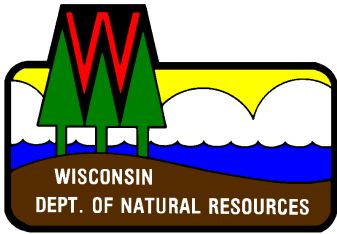


## ***D – Scope of the Maintenance and Contingency Plans***

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**20.Question: What is the estimated level of contingency measures that will need to be identified? Is there a tonnage target or percent reduction versus the inventory?**

- ◆ **Answer: While there are no absolute requirements for the scope of contingent control measures, they do have to be identified, quantifiable and enforceable program elements that can be adopted and instituted within a reasonable time. Recent regional precedent suggests that a significant level of impact would reflect effort similar in timing and scope to rate-of-progress effort. The milestones for progress are structured in three-year segments and 3% reduction is a minimum effort level associated with meaningful impact. The areas' RACM analyses associated with the attainment demonstrations indicated that achieving a rate of control stronger than the progress schedule was not reasonably available and therefore would not lead to earlier attainment. Hence, the Department anticipates a focus on the post-2007 period for the contingent measure list combined with no backsliding from the attainment plan reduction objectives during the interim period.**

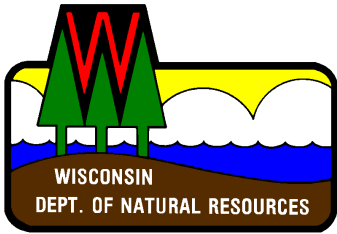


## ***D – Scope of the Maintenance and Contingency Plans***

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**21. Question: What happens to the transportation emissions budgets changing from nonattainment to maintenance and accounting for the new MOBILE model?**

- ◆ **Answer: Mobile sector emission projections and the resulting transportation emissions budget for the attainment demonstration in 2007 incorporate a 7.5% buffer. The Department anticipates a consistent projection of budgets under the maintenance plan. Under either the attainment or maintenance plans (if approved), the conformity budgets will get recalculated based on the MOBILE-6 model when released. Budget change based exclusively on changes to the emission factor assumptions of the model change (MOBILE-5 to -6) will automatically adjust the emissions targets for the active plan. But any changes to either activity projections (vehicle miles traveled (VMT) or travel) or to mobile sector control program design *would* directly affect the new budgets, the buffer size and the solidity of the SIP. Contingent control measure impact will be assessed against assumptions consistent with the newer MOBILE model for the post-2007 period.**



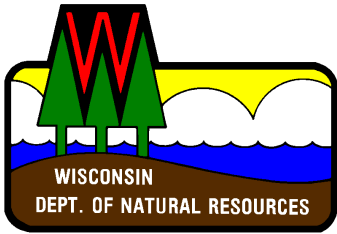
## ***D – Scope of the Maintenance and Contingency Plans***

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**22. Question: Can reformulated fuel be mandated by the state in Jefferson and/or Rock counties? If not, why not?**

- ◆ **Answer: No. Reformulated gasoline (RFG) is a federal control measure directed at severe ozone problem areas. Earlier in the SIP development process (~1994-96) the state looked at the feasibility of pursuing RFG as contingency control measures for the maintenance areas north of the severe 6-county area. The state could renew the listing of RFG as a contingency measure for the 5 maintenance counties that will not already use it post-2007 (all but the 6-county severe area), however there may be limitations on this based on recent case law. Also, as a result of the heightened sensitivity in 1995 regarding the introduction of RFG into the Milwaukee area, there has not been strong Wisconsin stakeholder support for the continued identification of measures that address gasoline quality for contingency purposes outside the existing RFG program area.**



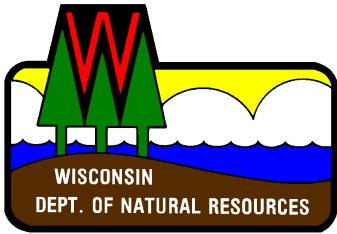


## ***E - Role of Voluntary Measures***

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**23. Question: How can a control measure be both voluntary and enforceable? Aren't the terms contradictory?**

- ◆ **Answer: EPA has established policies to allow for the use of voluntary measures as SIP elements. EPA has indicated that the contingency measure list can not be based exclusively on voluntary measures. However, where quantifiable within a defined program structure, voluntary programs can play a role in a state's contingency response. This is more likely to be true where an attainment demonstration is fully approved that includes rate-of-progress reduction objectives beyond the first period of measured air quality attainment.**

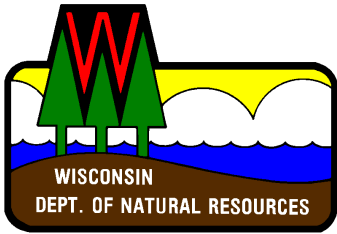


## ***E - Role of Voluntary Measures***

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**24. Question: Is there a federal tax reduction program for employers that allow employees to participate in tele-commuting?**

- ◆ **Answer: There are currently no federal tax benefits for tele-commuting. Federal tax laws include transit, vanpool and parking expenses as the only tax-free “qualified transportation fringe benefits.”**



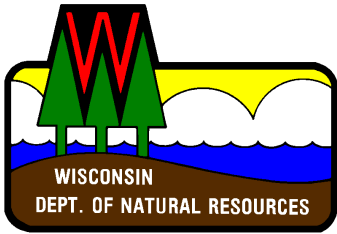
## ***E - Role of Voluntary Measures***

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**25. Question: What can manufacturers of small engines (lawn/garden, motorcycles, generators or marine engines) do to reduce emissions? Are the local manufacturers involved in the Partners for Clean Air Program?**

- ♦ **Answer: Regarding controls, the firms are subject to the typical volatile organic compound (VOC) RACT regulations that address both fugitive and process VOC-based solvent controls. Additional options include vapor-resistive fueling structures, integrated fueling and fuel tank arrangements and the various employee workplace incentives for centralized employers regarding commuter options and focused transit support.**

**Local manufacturers are involved in the Partners for Clean Air Programs and have taken initiatives to reduce emissions through product development and employee incentives. For example, Harley-Davidson has a “Walk to Work” program where they assist employees with down payments for homes near the workplace. Tecumseh produces a lawn mower engine that meets or exceeds EPA’s 2006 standards. Briggs and Stratton produces the new Force engine which is a 4-cycle engine that is cleaner than 2-cycle engines. They also produce Etek, an electric motor system for utility vehicles and golf carts.**

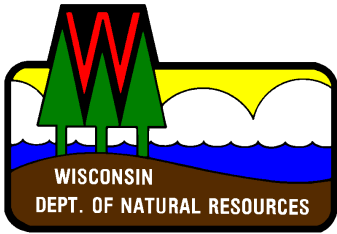


## ***E - Role of Voluntary Measures***

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**26.Question: How does the Department plan to educate the public on the availability and need for the gas cap wrenches at the gas pumps?**

- ◆ **Answer: The Department will first work through a targeted set of stakeholders that directly deal with gasoline system regulations and emission reduction issues. Using that network, we will attempt to involve some large initial sponsors that have sufficient market effect to heighten the overall market's awareness.**

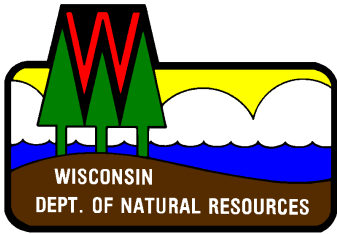


## ***E - Role of Voluntary Measures***

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**27. Question: Are all stakeholders aware that though voluntary reductions may affect 8-hour ozone concentrations, they may not be creditable or recognized by EPA as part of the regulatory burden addressing 8-hour SIPs?**

- ◆ **Answer: Wisconsin can get credit for voluntary measures by showing decreased monitor values.... so voluntary measures should be continued to help avoid getting 8 hour ozone nonattainment designations. Also, EPA has policies to give voluntary programs credit although they require a backstop from the state. The Department has a workgroup to help get EPA guidance changed to drop the backstop requirement.**



## ***E - Role of Voluntary Measures***

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**28. Question: Will the Department and other stakeholders help industry change EPA policy regarding the creditability of voluntary measures/reductions?**

- ◆ **Answer: As noted above, the Department does have a workgroup to help revise EPA guidance. Also, it should be noted that while the year that sets baselines for future control requirements has been a major discussion point for local industry, the regulatory burden for future reduction requirements is still likely to be based more on the ultimate sector performance level needed to meet air standards, rather than staged percent reduction objectives. Most cap and trade structures, including the recent NOx SIP, build emission caps based on allocations linked to baseline activity, projected activity growth and unit emission rates over some common timeframe. Though this structure tends to be blind to intermediate or early control efforts, it does not penalize facilities for early responses. Some cap and trade structures provide the capability to bank early reduction for application to later year reduction requirements. The core “progress” requirements appear to be met for ozone through 2007.**